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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/008,194	11/08/2001	Dominique Busseuil	1001-066	2143

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EXAMINER

CHANG, VICTOR S

ART UNIT PAPER NUMBER

1771

DATE MAILED: 08/19/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Advisory Action

Application No.

10/008,194

Applicant(s)

BUSSEUIL ET AL.

Examiner

Victor S Chang

Art Unit

1771

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 28 July 2004 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

PERIOD FOR REPLY [check either a) or b)]

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection. ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☐ A Notice of Appeal was filed on _____. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2. ☐ The proposed amendment(s) will not be entered because:
(a) ☐ they raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ they raise the issue of new matter (see Note below);
(c) ☐ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____

3. ☐ Applicant's reply has overcome the following rejection(s): _____.
4. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
5. ☒ The a) ☐ affidavit, b) ☐ exhibit, or c) ☒ request for reconsideration has been considered but does NOT place the application in condition for allowance because: see attached NOTE.
6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
7. ☒ For purposes of Appeal, the proposed amendment(s) a) ☐ will not be entered or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: _____

Claim(s) objected to: _____

Claim(s) rejected: 1-10, 12-14, 16-25, 27 and 32-38.

Claim(s) withdrawn from consideration: _____

8. ☐ The drawing correction filed on _____ is a) ☐ approved or b) ☐ disapproved by the Examiner.
9. ☐ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____.
10. ☐ Other: _____

NOTE

1. With respect to Applicants' argument "Hopton et al. and SU 506446 are improperly combined because there is no specific motivation to combine them." (Remarks, page 8, bottom paragraph), the Examiner repeats (see Office action dated 3/10/2004) that while Hopton lacks a specific teaching that the carrier and the extension are integrally molded with the same material, it is noted that SU '446 teaches that the process for forming extruded hollow profiled articles from thermoplastics having a complex configuration with thin projecting elements as various construction elements in automobiles, etc., is known art (Abstract). As such, it would have been obvious to one of ordinary skill in the art to make Hopton's structural member with the same synthetic resin such as nylon and by a profile extrusion process of SU '446, motivated by the desire to reduce the cost of manufacturing. Further, the Examiner notes that the use of a one piece construction instead of the structure disclosed in the prior art would be merely a matter of obvious engineering choice. See MPEP § 2144.04.V.B.
2. With respect to Applicants' argument "the skilled artisan would be quite unlikely to employ the Hopton et al. in combination with the SU 806446 reference to arrive at the invention of the claims of the present application, particularly since the Hopton et al. reference teaches that separate shelves of expandable material are advantageous as opposed to integrally formed extensions or ribs as claimed ... Examiner Chang suggested to the undersigned that such an argument would be quite persuasive.", the Examiner notes that no agreement has been reached during the interview on 7/26/2004,

and the Examiner merely suggests that Applicants may wish to provide a strong argument and/or evidence that why Hopton's teaching is not combinable with the secondary reference. In view of the fact that "integrally formed extensions or ribs" is merely an obvious engineering choice, as set forth above, which is taught by the combined teachings of Hopton and SU '446, and Applicants' argument lacks any persuasive secondary consideration, such as unexpected results, long felt needs, evidence of technical difficulties doing it the claimed way, evidence of avoidance of doing one way in the art, etc., Applicants' argument to the contrary notwithstanding.

3. With respect to Applicants' argument "The Office action of June 2, 2004 does not appear to mention the lateral spacing of the pair of ribs." (Remarks, page 12, top paragraph), the Examiner notes that lateral spacing of the pair of ribs has been clearly shown in relied upon Fig. 8 of Hopton, Applicants' argument to the contrary notwithstanding.

4. With respect to Applicants' argument "U.S. patent 6,641,208 or at least the information contained therein was already of record when the Office action of March 10, 2004 was issued. As such, it is improper to prevent a final rejection to claim 35, which was not amended in view of the Office action of March 10, 2004." (Remarks, page 12, middle paragraph), the Examiner notes that U.S. '208 is merely cited as evidence of state of the art in response to Applicants' newly raised issues, and there is no new grounds of rejection, Applicants' argument to the contrary notwithstanding.

5. Finally, the Examiner notes that the Terminal Disclaimer has been approved and entered.

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6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Victor S Chang whose telephone number is 571-272-1474. The examiner can normally be reached on 8:30 - 5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Terrel H Morris can be reached on 571-272-1478. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

VSC
Victor S Chang
Examiner
Art Unit 1771

8/12/2004


TERREL MORRIS
SUPERVISORY PATENT EXAMINER
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